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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,011	06/25/2001	Jing Wu	14357ROUS02U	9405
34845	7590	05/30/2006	EXAMINER	
McGUINNESS & MANARAS LLP			PATEL, NIKETA I	
125 NAGOG PARK			ART UNIT	
ACTON, MA 01720			PAPER NUMBER	
			2181	

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,011

Applicant(s)

WU ET AL.

Examiner

Niketa I. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,3-7 and 9-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/22/2006 has been entered.

Claim Objections

2. Claims 3 and 9 are objected to because of the following informalities: both of these claims depend from cancelled claims 2 and 8, respectively. Appropriate correction is required.

NOTE: The examiner has assumed that the applicant inadvertently failed to change the dependencies of both of these claims and that claim 3 should depend from claim 1 and claim 9 should depend from claim 7. The remainder of the office action is written accordingly.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1, 3-6, 7 and 9-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 1 recites the limitation "**from said downstream network node**" in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim. Applicant is

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3/15/2006

lines 1 and 8

requested to add a term 'downstream' in front of the term 'network node' in ~~line 1~~ of claim 1.

b. Claim 7 recites the limitation "**the mirrored control plane**" in line 10. There is insufficient antecedent basis for this limitation in the claim. Applicant must relate the mirrored control plane information with a downstream device. Applicant needs to associate the term 'downstream' with the first device, per the arguments field on 2/21/2006.

c. Claim 15 recites the limitation '**upstream**' however there is no mention of a 'downstream.' The control plane information can only be transmitted upstream to the first device if the first device is upstream relative to a second device, which is downstream relative to the first device. The applicant needs to positively recite that the first device is an upstream device and that the second device is a downstream device, which has the control plan information, per the arguments field on 2/21/2006.

Allowable Subject Matter

5. Claims 1, 3-6 and 15-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following is a statement of reasons for the indication of allowable subject matter:

Referring to claims 1, 3-6, the prior art of record taken alone or in combination with other, fails to teach and/or fairly suggest a device, which is upstream relative to a downstream

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network node, comprising a memory portion that mirrors control plane information received from the downstream network node, in combination with other recited limitations.

Referring to claim 7, 9-14, the prior art of record taken alone or in combination with other, fails to teach and/or fairly suggest a communication network comprising a first downstream device which receives mirrored control plane information from a second device that is upstream relative to the first device, in combination with other recited limitations.

Referring to claims 15-19, the prior art of record taken alone or in combination with other, fails to teach and/or fairly suggest a method for facilitating recovery from a control plane failure comprising the steps of having the downstream second device transmit control plane information to an upstream first device, in combination with other recited limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz Fleming can be reached on (571) 272 4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner:
Niketa Patel
05/24/2006

Supervisory
Fritz Fleming
FRITZ FLEMING
PRIMARY EXAMINER
GROUP 2100
AU 2181
5/25/2006